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Before the
Federal Communications Commission
Washington, D.C. 20554

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OCT 19 2004

Federal Communications Commission
Office of Secretary

In the Matter of)
)
Amendment of Section 73.202(b)) MB Docket No. 04-319
Table of Allotments,) RM-10984
FM Broadcast Stations.)
(Coal Run, Kentucky and Clinchco, Virginia))

To: The Secretary
(Attention: Assistant Chief, Audio Division)

REPLY COMMENTS

Dickenson County Broadcasting Corp. ("DCBC"), licensee of WDIC-FM, Channel 221A, at Clinchco, Virginia, by its attorneys, hereby replies to the Comments filed October 4, 2004, by East Kentucky Broadcasting Corp. ("Petitioner"), licensee of Station WPKE-FM, Channel 276A, Coal Run, Kentucky, proposing the substitution of Channel 221C3 for Channel 276A at Coal Run, and the modification of Station WPKE-FM's license accordingly. On October 4, 2004, DCBC showed why its license for WDIC-FM should not be modified as proposed in the Audio Division's *Notice of Proposed Rule Making and Order to Show Cause*, DA 04-2501, released August 12, 2004 ("*Show Cause Order*"). Reply Comments are due by October 19, 2004, so this pleading is timely filed.

The Audio Division issued the *Show Cause Order* at the request of Petitioner. To accommodate the upgrade, Petitioner also proposed the substitution of Channel 276A for Channel 221A at Clinchco, Virginia, and the modification of Station WDIC-FM's license accordingly. DCBC opposed the proposed modification on the ground that the change proposed by Petitioner cannot be effectuated because there is a major terrain obstruction located at 10.57 kilometers (6.57 miles) from the hypothetical allocation reference site. This mountain peak prohibits line-of-

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sight service between Petitioner's hypothetical allocation reference and Coal Run. Therefore, the Petitioner's proposal cannot be granted. Petitioner filed Comments supporting its proposal and providing a "preclusion study" as requested by the *Show Cause Order*.

Petitioner's Comments do nothing to address the fatal defect caused by the terrain obstruction. The Comments merely provide the preclusion study, again express interest in the use of Channel 221C3 at Coal Run, and pledge to reimburse DCBC pursuant to *Circleville, Ohio*, 8 FCC 2d 159 (1967). DCBC hereby places Petitioner on notice that should Petitioner attempt in its Reply Comments to change its proposal, DCBC will seek leave to oppose any such attempt.


In the unlikely event that the Commission should require WDIC-FM to change channels, DCBC is placing Petitioner on notice that one of the items for which DCBC will seek reimbursement is any cost or expense occasioned by the termination of an Agreement with ABC Radio Networks that permits the network to terminate the Agreement if there is a "change in [WDIC-FM's] transmitter location, power, frequency or hours of operation." Changing WDIC-FM's operating frequency from 92.1 MHz (Channel 221A) to 103.1 MHz (Channel 276A) would trigger this right in the network.

As DCBC stated in its Response to Order to Show Cause, Petitioner's allocation site is technically infeasible because of a terrain obstruction. Petitioner's petition for rule making must be dismissed as a result. DCBC opposes Petitioner's proposal to "swap" channels with DCBC.

WHEREFORE, in light of the foregoing, DCBC requests the Audio Division to dismiss Petitioner's petition and to terminate this proceeding without modifying DCBC's license.

Respectfully submitted,

**DICKENSON COUNTY
BROADCASTING CORP.**

By: 

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October 19, 2004

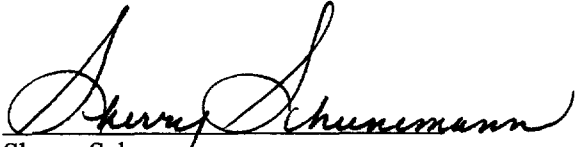
CERTIFICATE OF SERVICE

I, Sherry Schunemann certify that on October 19, 2004, copies of the foregoing Reply were sent via first class mail, postage pre-paid, to the following:

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Sherry Schunemann